

### § 540.3

### 46 CFR Ch. IV (10–1–02 Edition)

(h) *Passenger revenue* means those monies wherever paid by passengers who are to embark at any U.S. port for water transportation and all other accommodations, services and facilities relating thereto.

(i) *Unearned passenger revenue* means that passenger revenue received for water transportation and all other accommodations, services, and facilities relating thereto not yet performed.

(j) *Insurer* means any insurance company, underwriter, corporation, or association or underwriters, ship owners' protection and indemnity association, or other insurer acceptable to the Commission.

(k) *Evidence of insurance* means a policy, certificate of insurance, cover note, or other evidence of coverage acceptable to the Commission.

(l) *Whole-ship charter* means an arrangement between a passenger vessel operator and a corporate or institutional entity:

(1) Which provides for the purchase of all the passenger accommodations on a vessel for a particular voyage or series of voyages; and

(2) Whereby the involved corporate or institutional entity provides such accommodations to the ultimate passengers free of charge and such accommodations are not resold to the public.

[49 FR 36313, Sept. 14, 1984, as amended at 57 FR 41891, Sept. 14, 1992]

#### **§ 540.3 Proof of financial responsibility, when required.**

No person in the United States may arrange, offer, advertise or provide passage on a vessel unless a Certificate (Performance) has been issued to or covers such person.

#### **§ 540.4 Procedure for establishing financial responsibility.**

(a) In order to comply with section 3 of Public Law 89-777 (80 Stat. 1357, 1358) enacted November 6, 1966, there must be filed an application on Form FMC-131 for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation. Copies of Form FMC-131 may be obtained from the Secretary, Federal Maritime Commission, Washington, DC 20573.

(b) An application for a Certificate (Performance) shall be filed in duplicate with the Secretary, Federal Maritime Commission, by the vessel owner or charterer at least 60 days in advance of the arranging, offering, advertising, or providing of any water transportation or tickets in connection therewith except that any person other than the owner or charterer who arranges, offers, advertises, or provides passage on a vessel may apply for a Certificate (Performance). Late filing of the application will be permitted only for good cause shown. All applications and evidence required to be filed with the Commission shall be in English, and any monetary terms shall be expressed in terms of U.S. currency. The Commission shall have the privilege of verifying any statements made or any evidence submitted under the rules of this subpart. An application for a Certificate (Performance), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of \$2,549. An application for a Certificate (Performance) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of \$1,276.

(c) The application shall be signed by a duly authorized officer or representative of the applicant with a copy of evidence of his or her authority. In the event of any material change in the facts as reflected in the application, an amendment to the application shall be filed no later than five (5) days following such change. For the purpose of this subpart, a material change shall be one which: (1) Results in a decrease in the amount submitted to establish financial responsibility to a level below that required to be maintained under the rules of this subpart, or (2) requires that the amount to be maintained be increased above the amount submitted to establish financial responsibility. Notice of the application for, issuance, denial, revocation, suspension, or modification of any such Certificate shall be published in the FEDERAL REGISTER.

[49 FR 36313, Sept. 14, 1984, as amended at 59 FR 59172, Nov. 16, 1994; 63 FR 50537, Sept. 22, 1998; 67 FR 39861, June 11, 2002]